

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2162 - SB 2412

March 29, 2022

SUMMARY OF BILL AS AMENDED (016460): Requires the executive director of the Commission on Aging and Disability (TCAD) to create, maintain, and publish a registry of unlicensed facilities that provide care to elderly and vulnerable persons. Establishes that a state agency that finds a person or facilities that is operating while unlicensed must report that violation to the TCAD's executive director, who then must publish the information on the registry and notify the person or facility within three days of the publication. Allows the person or facility alleged to be in violation to appeal the publication, and if it is found the person or facility was appropriately placed on the registry, the executive director may seek injunctive relief in the Davidson County chancery court.

Creates a Class D felony for a person or facility to continue operating after notification of publication on the registry. Allows a state agency to subsequently recommend removing a person or facility from the registry if the initial violation was reported in error or if the person or facility gains proper licensure.

Establishes that TCAD may bring about a claim for relief up to \$5,000 each day a person or entity operates without a license. States that TCAD may enter a facility that is subject to licensure without consent of the owner, operator, or manager in order to investigate a complaint and if the owner, operator, or manager refuses entrance, TCAD shall refer matters to the local district attorney to seek a civil warrant authorizing entry or inspection, of which local law enforcement must assist in executing.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Expenditures - \$866,600/FY22-23

\$815,400/FY23-24 and Subsequent Years

The Governor's proposed FY22-23 budget includes funding in the amount of \$975,800 including \$929,600 in recurring funds and \$46,200 in non-recurring funds on page B-153.

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Assumptions for the bill as amended:

- In order for TCAD to create and maintain the registry, eight new positions will be created:
 - One new advisory attorney will create a recurring increase in state expenditures of \$109,958 (\$88,356 salary + \$21,602 benefits) in FY22-23 and subsequent years.
 - One new enforcement attorney will create a recurring increase in state expenditures of \$109,958 (\$88,356 salary + \$21,602 benefits) in FY22-23 and subsequent years.
 - One new legal assistant will create a recurring increase in state expenditures of \$62,465 (\$47,628 salary + \$14,837 benefits) in FY22-23 and subsequent years.
 - One new administrative services assistant 4 will create a recurring increase in state expenditures of \$65,236 (\$50,004 salary + \$15,232 benefits).
 - One aging program consultant will create a recurring increase in state expenditures of \$77,676 (\$60,672 salary + \$17,004 benefits) in FY22-23 and subsequent years.
 - Three new public health nurse consultant 2 will create a recurring increase in state expenditures of \$305,736 [(\$81,456 salary + \$20,456 benefits) x 3] in FY22-23 and subsequent years.
- The total recurring increase in state expenditures associated with these salaries and benefits of these positions, beginning in FY22-23, is estimated to be \$731,029 (\$109,958 + \$109,958 + \$62,465 + \$65,236 + \$77,676 + \$305,736).
- There will also be a one-time increase in state expenditures of \$3,900 per new position created for computer and phone costs, for a total of \$31,200 (\$3,900 x 8 positions), as well as, one-time expenditures of \$15,000 for advertising and training across sectors of state and local government and \$43,400 for office space for a total increase in state expenditures of \$89,600 (\$31,200 + \$15,000 + \$43,400) in FY22-23.
- There will further be a recurring cost of supplies, subscriptions, and dues of \$8,800, \$7,700 for an online database in which referrals are uploads to a public facing website, \$12,500 for contested cases and appeals and \$17,000 in travel costs for the new public health nurse consultant 2 for a total increase in state expenditures of \$46,000 (\$8,800 + \$7,700 + \$12,500 + \$17,000) in FY22-23 and subsequent years.
- Additional expenditures in FY23-24 and subsequent years will be \$38,400 (\$23,800 in office space and \$14,600 in computer costs).
- The total increase in state expenditures as a result of the proposed legislation will be \$866,629 (\$731,029 + \$89,600 + \$46,000) in FY22-23 and \$815,429 (\$731,029 + \$46,000 + \$38,400) in FY23-24 and subsequent years.
- Other state agencies, including but not limited to, the Department of Intellectual and Developmental Disabilities, the Department of Children's Services, the Department of Commerce and Insurance, the Tennessee Bureau of Investigation, the Department of Human Services, including the Division of Adult Protective Services, the Department of Health, the Bureau of TennCare, and the Department of Mental Health and Substance Abuse Services, are able to remit the required information to the executive director of

the Commission with existing resources and personnel should they be informed of an unlicensed facility, as they are not mandated to seek out these unlicensed facilities.

- There will not be a significant increase in Class D felony prosecutions to significantly impact state or local revenue or expenditures.
- The daily claim for relief placed upon a person or entity that operates without a licensure cannot be adequately assumed, but is not expected to result in a significant increase in state revenue.
- The potential increase in proceedings within the court that result from the proposed legislation can be handled within existing resources and personnel.
- There is not expected to be any significant increase in revenue from licensure fees as a result of facilities staying current on their licenses.
- Local law enforcement and district attorneys can assist with this legislation using existing personnel and resources.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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